

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Mauceri et al. Attorney Docket No: MICR0408
Serial No: 10/631,119 Group Art Unit: 2176
Filed: July 31, 2003 Examiner: Tran, Quoc A.
Title: INTEGRATED DECORATIVE PANELS

PETITION TO RESET PERIOD FOR RESPONSE BASED ON NOTICE OF INCOMPLETE
REFERENCE & REQUEST FOR REFUND

Bellevue, Washington 98004

August 17, 2006

TO THE DIRECTOR OF THE UNITED STATES PATENT & TRADEMARK OFFICE

Action Requested

As a result of applicants being unexpectedly informed that their REQUEST FOR RESETTING PERIOD FOR RESPONSE could not be authorized with respect to the above-identified application, applicants hereby respectfully petition to have the dates for responding to the Final Office Action reset accordingly, a refund for the EXTENSION OF TIME FEE, and a refund of this PETITION FEE.

Statement of the Facts Involved Including Procedural History

The following is a statement of the facts and a summary of the procedural history of the above-identified application that relate to this petition. Copies of the cited documents are available electronically as part of the prosecution history file and thus, are not included within this petition.

Applicants received a Final Office Action dated March 15, 2006 in the above-identified application, on March 17, 2006. When it was determined that a cited *non-patent literature* document was not included with the Final Office Action, applicants submitted a NOTICE OF INCOMPLETE REFERENCE & REQUEST FOR RESETTING PERIOD FOR RESPONSE on May 12, 2006. In addition, applicants also telephoned Examiner Tran and left a message regarding the missing reference on or about May 12, 2006. Examiner Tran returned applicants' call regarding the missing reference and indicated that this missing information should be available on PAIR. He also indicated that he would fax a copy of the missing reference to applicants' attorney. However, the above-identified application was submitted with a request not to publish, so that the Public PAIR is not

1 available for the application, and applicants did not receive this initial fax. On or about July 13,
2 2006, during a subsequent telephone call between applicants' attorney and Examiner Tran, in
3 response to applicants' earlier call to inquire about the status of the request for resetting the period for
4 reply, Examiner Tran explained that he had conferred with Supervisor Stephen Hong regarding the
5 Patent and Trademark Office policy pertaining to a request for resetting a period for response.
6 Examiner Tran explained that he was not authorized to grant applicants' request, because it was not
7 brought to his attention within one month of the mailing date of the Final Office Action.

8 Examiner Tran then faxed another copy of the missing reference to applicants, and applicants
9 finally received this faxed copy of the missing reference on July 13, 2006. On July 14, 2006,
10 applicants faxed a letter to Paul Sewell, Acting Director of Group 2170, Graphical User Interface,
11 Data Bases, requesting that he review the policy of his group regarding situations in which a request
12 is submitted to reset the reply period, and if he believed the position of the group policy to be in error,
13 requesting that he authorize Examiner Tran to grant applicants' Request for Resetting the Period for
14 Response. Applicants have never received any communication from Acting Director Sewell in
15 response to their letter. On August 8, 2006, applicants submitted a Request for Continued
16 Examination (RCE) of this application, along with an Amendment and Request for Reconsideration,
17 and paid the Extension of Time Fee (for a second month of extension – large entity) of \$450.

18 Point To Be Reviewed

19 Applicants respectfully request Acting Director Sewell to review Group Art Unit 2176's
20 policy pertaining to the REQUEST FOR RESETTING PERIOD FOR RESPONSE.

21 Applicants respectfully disagree with Group Art Unit 2176's policy pertaining to a Request
22 for Resetting Period for Response, because it is contrary to MPEP 710.06 which provides for setting
23 a new period for reply *if the error is brought to the attention of the Office within the period for reply*
24 *set in the Office action but more than 1 month after the date of the Office action.* A portion of
25 MPEP 710.06 entitled "Situations When Reply Period Is Reset or Restarted [R-3]" is reproduced
26 below:

27 Where the citation of a reference is incorrect or an Office action contains some other
28 error that affects applicant's ability to reply to the Office action and this error is called
29 to the attention of the Office within 1 month of the mail date of the action, the Office
30 will restart the previously set period for reply to run from the date the error is
corrected, if requested to do so by applicant. ***If the error is brought to the attention of
the Office within the period for reply set in the Office action but more than 1 month***

1 *after the date of the Office action, the Office will set a new period for reply, if*
2 *requested to do so by the applicant,* to substantially equal the time remaining in the
3 reply period. For example, if the error is brought to the attention of the Office 5 weeks
4 after mailing the action, then the Office would set a new 2-month period for reply. The
5 new period for reply must be at least 1 month and would run from the date the error is
6 corrected. See MPEP § 707.05(g) for the manner of correcting the record where there
7 has been an erroneous citation. (Emphasis added.)

8 As highlighted in the underlined portion above, applicants submit that the Final Office Action
9 dated March 12, 2006 contains an error that affected applicants' ability to reply to the Office Action,
10 since non-patent literature art was cited in rejecting the claims of this application, but a copy was not
11 provided to applicants. This error is the omission of pages 114-140 of the non-patent document
12 authored by Teague, (Reference "U"). This reference was cited under the section entitled "Response
13 to Arguments" in the Final Office Action and therefore is necessary in order for applicants to respond
14 to the Final Office Action. In accord with the italicized portion of the above quote from the MPEP,
15 this error was brought to the attention of the Office on May 12, 2006, which is within the period for
16 reply set in the Final Office Action since the THREE-MONTH shortened statutory period ends on
17 June 15, 2006, but more than 1 month after the date of the Final Office Action of March 12, 2006.
18 And a request to restart the previously set period for reply was submitted in the form of a Notice of
19 Incomplete Reference & Request for Resetting Period for Response, dated May 12, 2006. Thus,
20 applicants are in compliance with MPEP 710.06, and the period to respond should have been reset.

21 Conclusion

22 Applicants submit that they are in compliance with the rules set forth in MPEP 710.06. Thus,
23 they respectfully request that Examiner Tran be required to reset the period for reply accordingly and
24 respectfully request that applicants receive a refund for the Extension Of Time Fee that has been paid
25 and of the Petition Fee, which is noted below.

26 1. Petition Fee

27 The petition fee is paid herewith by credit card in the amount of \$400 as designated by 37
28 CFR § 1.17(f) (Group I §1.182 – for decision on a question not specifically provided for).

29 2. Additional Fee Charges or Credit for Overpayment

30 Please charge any additional fees or credit any overpayment and refunds to Deposit Account
No. 01-1940.

1 3. Verified Statement

2 I hereby declare that all statements made herein of my own knowledge are true and that all
3 statements made on information and belief are believed to be true; and further that these statements
4 were made with the knowledge that willful false statements and the like so made are punishable by
5 fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that
6 such willful false statements may jeopardize the validity of the application, any patent issuing
7 thereon, or any patent to which this verified statement is directed.

8
9 Respectfully submitted,

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11 /sabrina k. macintyre/
12 Sabrina K. MacIntyre
13 Registration No. 56,912

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